

RSC Policy Brief: **How Reconciliation Works**

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The Budget Act of 1974 created the current congressional budgeting process. Among other things, it established the Congressional Budget Office, set the timeline for consideration of the budget resolution, and setup the reconciliation process. Reconciliation was intended to give Congress greater authority to enforce the budget resolution. The main reason that a majority may find the use of the reconciliation process advantageous is that it places limits on debate of a reconciliation bill in the Senate. Now that Congressional Democrats are seeking to use reconciliation for healthcare reform, the following information could be useful to understanding the process.

Timeline for Reconciliation: The reconciliation process proceeds in this order

1. *Budget Resolution:* The budget resolution—as adopted by the House and Senate—includes reconciliation instructions for the relevant committee. Reconciliation instructions provide one or more committees budget targets to meet, and a non-binding deadline on when to report out legislation meeting the specifications.
2. *Relevant Committees Submit Recommendations to the Budget Committee:* The budget resolution will set a deadline for this action (October 15, 2009 in the case of health care reform), but if the committee does not meet it, there are no resulting consequences.
3. *Budget Committee Reports Reconciliation Bill:* If the budget resolution gives instructions to more than one committee, the Budget Committee reports out the combined product of each committee.
4. *Floor Consideration:* In the House, a reconciliation bill has no real advantage in terms of ease of passage. In the Senate, on normal legislation, the threshold for passing legislation is often 60 votes (the number needed to invoke cloture). The advantage of considering legislation under reconciliation, from the perspective of the majority, is that there is no need to invoke cloture to bring the bill to a final vote since, under the Budget Act, a bill considered under reconciliation is subject to only 20 hours of debate. In other words, reconciliation can lower the threshold for passing a bill from 60 votes to 51 votes.

The reconciliation instructions from a budget resolution only “turn off” upon the earlier of the adoption by both the House and Senate of the next fiscal year budget resolution, or the end of the Congress.

Senate Consideration of a Reconciliation Bill: The Budget Act gives the Senate 20 hours of debate on a reconciliation bill (including amendments, motions, etc.). However, Senators may keep offering amendments even after time for debate has expired. The reconciliation process prescribes no limit to how many amendments may be offered. The Budget Act prescribes no similar limit for debate on a reconciliation bill in the House. But this is non-consequential since the majority in the House can adopt a rule, by majority vote, that sets whatever limits on debate and amendment it wants.

What Reconciliation Can Be Used For: The “Byrd Rule”—a 1990 amendment to the Budget Act—prohibits “extraneous” provisions from being included in a reconciliation bill. Essentially, a provision must have an impact on the budget to be included in a reconciliation bill. The “Byrd Rule” also prohibits changes to Social Security, even that have a budget impact, from being included in a reconciliation bill.

Obstacles to Reconciliation in the Senate: Although the reconciliation process places limits on debate in the Senate (the advantage of using reconciliation), the majority still faces at least three other obstacles in getting a reconciliation bill through the Senate:

1. *Deficit Impact:* The bill must not make the deficit worse relative to the reconciliation instructions. Further, beyond the ten-year budget window, the bill may not increase the deficit.
2. *“Byrd Rule”:* Provisions in a reconciliation bill must meet the requirements of the “Byrd Rule,” or they can be stripped from the legislation by a point of order (unless 60 Senators decide to override the point of order). The most notable limit the “Byrd Rule” places on the Senate’s use of reconciliation is the requirement that a provision included in the legislation have a budgetary impact.
3. *No Limit on Amendments:* While reconciliation limits time for debate, it does not limit the number of amendments that may be offered.

The majority’s plan for use of reconciliation on the health care bill could be derailed by any of these obstacles, particularly the last two.

With 41 Republican Senators, it is unlikely that any provision subject to a “Byrd Rule” point of order would receive the needed 60 votes. It is likely that many provisions from an agreement by House-Senate Democrats on a health care bill would not have a budgetary impact, and would therefore be struck from the bill in the Senate.

As noted above, the reconciliation process provides no limit to how many amendments may be offered. It is unclear what would happen should a determined minority resolve to prohibit the use of reconciliation by offering unlimited amendments.¹

Short History of Reconciliation: Since enactment of the Budget Act, there have been 22 instances of reconciliation bills passed by Congress (19 became law, 3 were vetoed and did not become law).² The first 21 examples of reconciliation were primarily concerned with making the tax and spending changes recommended by the budget resolution. In fact, the 1981, 1993, 1995, and 1997 reconciliation bills have colloquially become known as the “budgets” for those years. The 2001 and 2003 reconciliation bills dealt with implementing the tax reductions called for by the respective budget resolutions. The FY 2006 budget resolution led to the Deficit Reduction Act of 2005 (aimed at modestly restraining the growth of some mandatory programs) and the Tax Increase Prevention and Reconciliation Act of 2005 (implemented the tax cuts called for by the budget resolution). On the other hand, the 22nd example of reconciliation, the College Cost Reduction and Access Act of 2007, had a very weak net budgetary impact.

Additional Resources:

- Robert Keith, CRS Report: [The Budget Reconciliation Process: Timing of Legislative Action](#), November 14, 2008.
- Robert Keith, CRS Report: [The Budget Reconciliation Process: The Senate’s Byrd Rule](#), July 8, 2009.
- Keith Hennessey, “[What is Reconciliation?](#)” [KeithHennessey.com](#), August 5, 2009.
- Keith Hennessey, “[The Challenges of the Two Bill Strategy](#),” [KeithHennessey.com](#), March 1, 2010.

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¹ Keith Hennessey, “The Challenges of the Two Bill Strategy,” [KeithHennessey.com](#), at <http://keithhennessey.com/2010/03/01/two-bill-challenges/>

² Robert Keith, CRS Report: The Budget Reconciliation Process: Timing of Legislative Action, November 14, 2008, at <http://crs.gov/Pages/Reports.aspx?ProdCode=RL30458>